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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,218	07/10/2003	Frank S. Glaug	28120	2366
74440 Covidien 601 Allendale Road King of Prussia, PA 19406	7590 02/27/2009		<div>EXAMINER</div> <div>ANDERSON, CATHARINE L</div>	
			<div>ART UNIT</div> <div>3761</div>	<div>PAPER NUMBER</div>
			<div>MAIL DATE</div> <div>02/27/2009</div>	<div>DELIVERY MODE</div> <div>PAPER</div>

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/617,218

Applicant(s)

GLAUG ET AL.

Examiner

Lynne Anderson

Art Unit

3761

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- _____ Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- _____ Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 17 December 2008 has been entered.

Response to Arguments

1. Applicant's arguments with respect to claims 1-19 and 34 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-13, 16-19, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dravland (4,906,243) in view of Imsangjan et al. (7,011,653), and further in view of Otsubo et al. (US 2002/0151864).

4. Dravland discloses all aspects of the claimed invention with the exception of the front section having an S-shaped arcuate edge portion, and the leg openings forming mirror images of each other. Dravland discloses a disposable undergarment having a

front waist portion 10c, a belly portion 14c, a rear waist portion 10a, a rear back portion 14a, and a crotch portion 10b, as shown in figure 4. The undergarment has a pair of leg openings, each leg opening having an S-shaped arcuate edge portion in the rear section 14a that forms a convex projection at the lower portion of the leg opening, as shown in figure 1.

5. Imsangjan discloses an undergarment having leg openings, each leg opening having an S-shaped arcuate edge portion in the front section, as shown in figure 4. The S-shaped arcuate edge portion help keep the garment in place during use and improve comfort, as disclosed in column 3, lines 19-48.

6. It would therefore be obvious to one of ordinary skill in the art at the time of invention to provide the front portion of the leg openings of Dravland with an S-shaped arcuate edge portion, as taught by Imsangjan, to help keep the garment in place during use and improve comfort.

7. Otsubo discloses an undergarment having convex and concave leg openings wherein the leg openings form mirror images of each other, as shown in figure 6. This provides for an efficient and easy method of manufacturing the undergarment, as shown in figure 6.

8. It would therefore be obvious to one of ordinary skill in the art at the time of invention to provide the undergarment of Dravland, as modified by Imsangjan, with leg openings that form mirror images of each other, as taught by Otsubo, to allow for a more efficient and easy method of manufacturing.

9. With respect to claim 2, Dravland discloses that each of the leg openings is elasticized by elastic threads 20 and 22, as shown in figure 1.
10. With respect to claim 3, the elastic threads 20 and 22 extend along the convex edge portion, through the intermediate edge portion, and into the front portion, which when modified by Imsangjan is the concave edge portion.
11. With respect to claims 4 and 5, a plurality of transversely extending elastic threads 18 extend through the waist portion, as shown in figure 1.
12. With respect to claim 6, the article comprises an absorbent core 14.
13. With respect to claim 7, the article further comprises an absorbent core 14 and insert sheet 16, and a gasketed compartment for absorption of liquids.
14. With respect to claims 8-13, Dravland, as modified by Imsangjan, discloses all aspects of the claimed invention with the exception of the placement of the elastic threads across the belly portion and the rear back portion of the article, and the crotch portion being a separate member. Otsubo teaches an article having elastic threads 23 and 24 extending across the belly portion and the rear back portion, as shown in figure 3. The crotch portion of the article is a separate member, as shown in figure 3. This configuration provides the article with a more secure and comfortable fit, as disclosed in paragraph [0006]. It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the article of Dravland with the elastic threads and separate crotch portion of Otsubo, in order to provide the article with a more secure and comfortable fit.

15. With respect to claim 16, the core 14 comprises absorbent material, as disclosed in column 2, line 1.

16. With respect to claim 17, the article comprises a fluid acquisition layer 16 disposed over the core 14, as disclosed in column 1, line 68.

17. With respect to claim 18, the core 14 comprises absorbent material, as disclosed in column 2, line 1.

18. With respect to claim 19, the article comprises a fluid acquisition layer 16 disposed over the core 14, as disclosed in column 1, line 68.

19. With respect to claim 34, Dravland, as modified by Imsangjan, fails to disclose the concave and convex edge portions being shaped from a single web cut along a single line. Otsubo teaches the formation of front and back waist panels forming complementary leg openings from a single web of material cut along a single line, as shown in figure 6, to reduce material waste and simplify production. It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the leg openings of Dravland, as modified by Imsangjan, from a single web, as taught by Otsubo, to reduce material waste and simplify production.

20. Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dravland (4,906,243) in view of Imsangjan et al. (7,011,653) and Otsubo et al. (US 2002/0151864), and further in view of Good et al. (5,843,056).

21. Dravland, as modified by Imsangjan and Ostubo, discloses all aspects of the claimed invention with the exception of the chassis comprising a nonwoven spunbond

polypropylene. Good teaches the use of spunbond polypropylene as a suitable nonwoven material for the topsheet of an absorbent article, as described in column 5, lines 51-64. It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the article of Dravland with a nonwoven spunbond polypropylene, as taught by Good, to provide a suitable topsheet for the article.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynne Anderson whose telephone number is (571)272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. A./
Examiner, Art Unit 3761

/Tatyana Zalukaeva/
Supervisory Patent Examiner, Art Unit 3761